

May 18, 2009

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

OWNER: Max Lissak
Lenora Apartments LLC
11121 NE 53rd Street
Kirkland, WA 98033

CONTACT: Dennis Alfredson
Plat & Site Civil Design, LLC
37702 280th Place SE
Enumclaw, WA 98022

Lenora Short Plat
LUA-09-032, SHPL-H
(King County DDES File #L07S0079)

LOCATION: Northeast of SE 178th Place and 116th Ave SE

SUMMARY OF REQUEST: Hearing Examiner Short Plat approval for a 0.97 acre parcel into 6-lots for the eventual development of single family residences.

SUMMARY OF ACTION: Development Services Recommendation: Approve subject to conditions.

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on April 21, 2009.

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

***The following minutes are a summary of the April 28, 2009 hearing.
The legal record is recorded on CD.***

The hearing opened on Tuesday, April 28, 2009, at 9:02 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, reports, staff comments, proof of posting, proof of publication and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Vicinity Map

<u>Exhibit No. 3:</u> Preliminary Short Plat	<u>Exhibit No. 4:</u> County Road Variance Recommendation
<u>Exhibit No. 5:</u> City Road Variance Approval	<u>Exhibit No. 6:</u> Aerial Photograph
<u>Exhibit No. 7:</u> Existing & New Pervious Areas Plan	

The hearing opened with a presentation of the staff report by Rocale Timmons, Associate Planner, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The site is located on the east side of 116th Avenue SE just south of SE Petrovitsky Road and just north of SE 178th Place. The applicant applied for a short plat with King County in January of 2008 just prior to the Benson Hill Annexation, the property was annexed into the City on March 1, 2008. The property currently is located within the R-4 designation of the City of Renton, however the property is vested to the County's R-6 zoning development standards.

The applicant applied for a 6-lot short plat, the site is approximately 0.97 acres, the average lot size for the proposed lots would be 5,900 square feet. Access would be provided by an access tract (Tract A) and a joint use driveway (Tract B) from 116th Avenue SE.

A road variance application regarding reduced intersection spacing, from 500 to 197 feet, was recommended for approval by King County, the City issued concurrence with the recommendation.

The proposed density would be approximately 6 dwelling units per acre. There are no lot depth or size requirements in the King County code. The lot width requirements are 30 feet. It appears that all lots meet the 30-foot width requirement.

A conceptual landscape plan was not submitted, street trees are required every 40-feet on the street front. A recreation tract has been proposed between Lots 1 and 2. King County code requires 390 square feet of recreation be allotted for each lot, which amounts to 2,340 square feet for the proposed tract. King County further requires that each dimension of the tract be 30 feet in length. It appears that the panhandle that abuts Tract A is less than 30 feet. That would need to be revised to meet the recreation standards. A tot lot is also required by King County code and that had not been presented to the planners.

Tract A would be used as access for Lots 1, 2, 5 and 6 and the recreation tract. The joint use driveway, Tract B would be used as access for Lots 3 and 4. All lots should only gain access from the Tracts and not via 116th Ave SE. A five foot dedication right-of-way is required along the frontage of 116th Avenue SE and street improvements would be necessary.

A Traffic Mitigation Fee would be required for this proposal.

Currently runoff sheet flows to the north and northeast corner and makes its way towards Petrovitsky Road and eventually into Soos Creek. The discharge flows through a sphagnum bog within the Soos Creek wetland downstream. The applicant would be required to provide special water quality provisions because of the discharge that would flow through this sphagnum bog. The applicant proposes to restrict new impervious surface areas below the 10,000 square foot threshold, this eliminates the need for the construction of a drainage facility or the need to mitigate for discharge into the downstream wetland.

Police, Fire and Parks departments have reviewed the proposal and it appears that adequate resources have been provided. Fire has indicated some concern for Lots 2-5 with its limited access, they have required that Lots 2-5 have sprinklers installed.

This site is located within the Renton School District and they anticipate that they can accommodate any additional students generated by this proposal.

This project is within the Soos Creek Water and Sewer District. A water availability certificate from Soos Creek Water and Sewer has been included with the application.

Dennis Alfredson, 37702 280th Place SE, Enumclaw 98022 stated that he is the civil engineer for the project. He did calculate the amount of impervious allowed for each lot. He did not bring his copy, he assumed it would be in the file, but was not.

Regarding Staff Recommendation #10 he wanted to clarify that the 10,000 square feet is in addition to the impervious that was existing previously. The previously existing pervious area was 11,166 add the 10,000 would equal 21,166 total. They are limited to 2,393 square feet per house. Each house would have a note recorded on the final plat showing how much square footage they are allowed.

Regarding the recreation tract, he would have liked to make the entrance smaller than it currently shows, it is just to allow entrance to the recreation tract.

The Examiner stated that 30-feet is King County code and so that is what it must be. He did question if the access to Lot 2 was sufficient, it appears to be very narrow and difficult to turn into.

Mr. Alfredson stated that the design of the Recreation Tract could be juggled a bit wider, which would affect Lot 2 access. Only 2 lots are allowed to use a joint use driveway. It was mentioned that there might be some way to fine tune the final design.

The Examiner stated that some things can be worked out such as the street trees, but the plat needs to meet code so that he can make a decision, that this is the plat and it proceeds from there. If the Recreation Tract needs to be widened in order to have the appropriate square footage to serve the six lots, it appears that Lot 2 would have some problems getting in and out of this parcel.

Ms. Timmons suggested that to reduce the panhandle and widen the actual space of the recreation tract so that Tract A actually has a portion that extends into the Recreation Tract. The panhandle would become a portion of Tract A and with that space, increase the Recreation Tract so that it has 30 feet on all sides.

Max Lissak, 11121 NE 53rd Road, Kirkland 98033 stated that he is the manager of Lenora Apartments, LLC. When this parcel was acquired in November 2006, the lot was used as a dumping ground for stolen vehicles, the buildings on the site were in terrible condition, they had been used by drug addicts. Approximately 9-10 loads of old tires were hauled from the site.

Lloyd Buckmeier, 16547 121st Avenue SE, Renton 98058 stated that he had some concerns. He owns the next two lots to the south of this site. He has two large 36 x 60 square feet buildings that he put up years ago. He has a lot of room, the building adjacent to the proposed site is 35-feet from the property line and that was done in order for him to take care of his own roof water. The west side of 116th is higher than the east side, during the rainy months the water table gets fairly high on his side of the street. There is no standing water on his lot, but his concern is that if he ends up with three homes five feet from the property line and they cover all that ground up that is absorbing all the water now, where is the roof water going to go. Five feet will not take care of the roof water from three buildings. Depending on the grading done on the new site, if it should be raised any he would see standing water on his property. During the rainy season the property was a real mud hole. The other concern is the four lots at the back with a minimum of two parking spaces per lot, if all those people have company and where will all those extra cars park.

The Examiner stated that there would be only one easement driveway into the property. There will be no access from 116th to the new homes.

Kayren Kittrick, Community & Economic Development stated that the 2005 King County Surface Water Manual will be required. That is why the issue of the square footage is important to the city, all measurements will be verified. It will depend on the quality of the impervious surface that existed previously, how much it was used, how long it was there. They will look at the history and compare the information provided by the engineer but overall, the 2005 King County Manual dictates exactly what will happen on this site.

Most likely, if a water vault were to be required it would be placed on the Recreational Tract.

Regarding moving the Recreation Tract, it would be best to shift Lot 2 further west and put the Recreation Tract between Lots 2 and 3, square it up with the correct footage, get the frontage correct, she was not sure of the lower end. If a small vault were to be required, they would need the depth.

There could be a modification issued for the Joint Use Driveway to accommodate three access points.

Fire Department has required Lots 2, 3, 4, and 5 to have sprinklers installed. Any pavement less than 20-feet wide does not allow parking.

Roof water would not be allowed to drop directly on the property, it has nowhere to go, they will have to tight line it and get it out to 116th.

It would be preferred that a note be placed on each lot with the total amount of space that they have for their individual lot to build improvements.

Some parking will be allowed along 116th, and each individual home will have two parking spaces in their driveway. There will be a five foot dedication along 116th as well.

Mr. Lissak stated that they would create a Homeowner's Association that would have controlling rules regarding parking, they will not be allowed to park in front of neighboring property as well as not parking on the main street. Each homeowner will be required to follow the rules.

As to restricting each lot to their improvements, those rules can be set prior to construction so no one individual can construct any huge deck, etc. It appears from various trips to the site that there is no collection of water on the site and that there is sufficient runoff of water as the site is today.

Mr. Alfredson stated that some dirt could be moved around to make the drainage work. They may have to raise some areas and lower others in order to make the drainage flow to an acceptable storm sewer in 116th.

Ms. Kittrick stated that the drainage would be inspected, the inspector would contact Mr. Buckmeier to make sure things are going well. The flow will be kept to the northeast as it is now flowing.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 10:00 a.m.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Max Lissak, Lenora Apartments LLC, filed a request for a Short Plat.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Short Plat is exempt from review by the Environmental Review Committee (ERC).
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. The subject site is located along the east side of 116th Street SE and north of SE 178th Place, if extended to the east.
6. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of single family uses, but does not mandate such development without consideration of other policies of the Plan.
7. The subject site is currently zoned R-4 (Single Family - 4 dwelling units/acre). Although the subject site is now located within the City, the application was submitted while the property was under the jurisdiction of King County and the county's rules will apply. The subject site is vested under King County's R-6 Zone. The standards for lot area, yard setbacks or dimensions and development standards would be judged against King County standards in effect when the application was submitted on January 9, 2008.
8. The subject site was annexed to the City with the adoption of Ordinance 5327 enacted on March 1, 2008.
9. The subject site is approximately 0.97 acres or 42,447 gross square feet. The subject site is approximately 141 feet wide (north to south) by 301 feet deep.
10. The subject site is essentially level sloping down about 4 feet from the southwest to the northeast.
11. The tree inventory found approximately 11 significant trees on the subject site. Those trees are concentrated in the northeast corner of the property.
12. The applicant proposes dividing the subject site into 6 lots with two tracts to provide access to interior parcels and a third tract for recreation and open space. The lots would range in size from approximately 4,900 square feet to 7,000 square feet.
13. Access would be provided by 116th Street and a private east-west roadway consisting of Tracts A (western) and B (eastern). Both tracts would be 20 feet wide. Tract B would be a shared driveway that may only serve two (2) lots. A variance has been approved for this method of access. Another variance was issued to allow reduced intersection spacing to permit the driveway to be placed 197 feet from an existing intersection.
14. Proposed Lots 1 to 3 would run west to east across the north property line with the recreation tract proposed to be between Proposed Lots 1 and 2. Proposed Lot 2 and the recreation tract key into one another creating a pipestem access to the recreation track and a dogleg toward the west for Proposed Lot

2. There does not appear to be sufficient room for a driveway into Proposed Lot 2 from its access tract, Tract A. Proposed Lot 2 cannot take access from the interior Tract B or it would violate provisions allowing only two lots to share a driveway tract.
15. Proposed Lots 4 to 6, (east to west) would run along the south property line. Proposed Lot 5 would have its access from the end of Tract A.
16. Staff has recommended that Proposed Lots 1 and 6, the two lots fronting along 116th Street be precluded from access to that street to reduce the number of intersections. Access to those two lots would be from the access Tract A.
17. The applicant will be required to dedicate property along the frontage to install curb, gutter and sidewalks. The dedication would be approximately 5 feet deep along the frontage.
18. King County requires recreational space of 390 square feet per home or, in this case, 2,340 square feet. The applicant has proposed providing 2,351 square feet or 11 more than required. The recreation tract does not provide the required 30 foot pipestem to meet King County's standards for width. Since the space provided is just above the minimum, shifting space between the recreational tract and Proposed Lot 2 to allow access could be hard to achieve.
19. The King County code permits a density of 6 units per acre. The density for the plat would be approximately 5.82 dwelling units per acre using King County standards.
20. The subject site is located within the Renton School District. The plat would generate approximately 3 students and they would be spread across the grades.
21. The development will increase traffic approximately 10 trips per unit or approximately 60 trips for the 6 single family homes. Approximately ten percent of the trips, or approximately 6 additional peak hour trips will be generated in the morning and evening.
22. Stormwater flows to the north and northeast and eventually into the Soos Creek 2 Wetland and sphagnum bog. Code requires the protection of the bog. The standards applicable to this project are still under review since they are based on the amount of original impervious surface. The City will be seeking to verify values provided by the applicant. Staff has recommended that the applicant be permitted no more than 10,000 square feet of new impervious surface. After some consideration at the hearing, it was decided to divide and limit it on a per lot basis and provide that value for each lot on the face of the plat.
23. Sewer and water service will have to be provided by the Soos Creek Water and Sewer District. Fire flows will have to meet City standards.
24. A neighbor was concerned about stormwater and the grade difference as it might affect his property. There was also a concern about the permitted setbacks and potential parking issues.

CONCLUSIONS:

1. In the main the proposed plat appears to serve the public use and interest. The King County regulations overlay the property and it appears that the proposed short plat meets most of those requirements for setback, lot sizes and road and some access requirements.

2. The applicant will have to work with staff to provide appropriate dimensions for the recreation tract and also legal access to Proposed Lot 2. As proposed the plat does not appear to satisfy those particular County standards. This office will need to see those plans before the short plat can be fully approved.
3. Since a variance was already approved to allow intersection spacing to be reduced from normal King County requirements, it is appropriate that Proposed Lots 1 and 6 not be permitted access directly to 116th Street. They should be required to access from Tract A and this should be included on the face of the plat map.
4. This plat must provide appropriate stormwater controls and calculations must be verified for the amount of credit for older impervious surface as well as dividing the proposed 10,000 square feet of new surface between the proposed lots and recreational tract. The final number shall appear on the face of the plat.
5. The proposed plat will provide additional housing opportunities for new residents and the redevelopment of the site will help increase the tax base of the City.
6. The new plat will increase traffic on the nearby streets and should pay the appropriate mitigation fee to help offset those impacts.
7. In conclusion, the plat appears reasonable as long as appropriate access can be provided to Proposed Lot 2 and the recreational tract meets code standards.

DECISION:

The six lot short plat is approved subject to the following conditions:

1. The applicant shall work with staff to provide appropriate dimensions for the recreation tract and also legal access to Proposed Lot 2. This office shall receive a copy of appropriate plans and staff analysis of that new plat plan before the short plat can be fully approved.
2. A note shall be placed on the face of the short plat requiring orientation for the front yard of Lots 1 and 6 towards 116th Ave SE and Lots 2 through 5 towards the private access tract or joint use driveway.
3. A detailed landscape plan shall be submitted to and approved by the Current Planning Project Manager prior to utility construction approval.
4. The applicant shall be required to provide a detailed tree retention plan prior to utility construction approval. The tree retention plan shall be reviewed and approved by the Current Planning Project Manager.
5. The applicant shall submit a revised short plat plan depicting a recreation tract with no less than a 30-foot dimension on any side per KCC 21A.14.180.C. The revised short plat plan shall be submitted and approved by the Current Planning Project Manager prior to utility construction approval.
6. The applicant shall submit a detailed recreation space plan in accordance with KCC21A.16 prior to utility construction approval. The plan shall include location, area and dimensions of recreation area improvements along with fencing.
7. The applicant shall establish a homeowners' association for the development, which would be

responsible for any common improvements and/or tracts (including the recreation and private access tract) within the plat prior to final short plat approval.

8. A note shall be placed on the face of the short plat restricting direct access from 116th Ave SE for all lots. Access shall be provided via the Private Access Tract.
9. The frontage, along 116th Ave SE, for the full length of the property shall be improved to the satisfaction of the City of Renton Development Services Division subject to the King County Road Standards or as modified by variance.
10. The applicant shall pay a Transportation Mitigation Fee based on the new average daily trips attributed to the project.
11. A note shall be placed on the face of the short plat limiting the new impervious surface to 10,000 square feet for the entire site. The 10,000 square feet shall be appropriately divided and shown on the face of the plat for each lot and/or tract.
12. Any future residence constructed on Lots 2 through 5 within the short plat shall be required to install sprinklers. A note shall be recorded on the face of the short plat to this effect.

ORDERED THIS 18th day of May 2009

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 18th day of May 2009 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Gregg Zimmerman, PBPW Administrator	Transportation Division
Alex Pietsch, Economic Development	Utilities Division
Jennifer Henning, Development Services	Neil Watts, Development Services
Stacy Tucker, Development Services	Janet Conklin, Development Services
Marty Wine, Assistant CAO	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., June 1, 2009.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., June 1, 2009.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.